

## CHAPTER 17 EXEMPT SALES

[Prior to 12/17/86, Revenue Department[730]]

### **701—17.1(422,423) Gross receipts expended for educational, religious, and charitable purposes.**

Net proceeds of an organization are exempt to the extent such proceeds are expended for educational, religious, or charitable purposes, except receipts from games of skill, games of chance, raffles, and bingo. Iowa Code section 422.45(3) requires that the activity from which the proceeds are derived must be from sales of educational, religious, or charitable activities and that the net proceeds be expended on these types of qualifying activities to be exempt from sales tax. For the purposes of determining if net proceeds are exempt from tax under this rule, subsequent to the sales event, the department analyzes the activities and the extent to which the net proceeds are expended on such activities. Net proceeds are exempt from sales tax to the extent that they are expended on educational, religious, or charitable activities.

**17.1(1) Evaluation.** For purposes of this rule, educational, religious, and charitable activities will be evaluated as follows:

*a. Educational.* The acquisition of knowledge tending to develop and train the individual. An activity that has as its primary purpose to educate by teaching. An activity that has as its primary objective to give educational instruction. An activity where the educational process is not merely incidental. An activity where the purpose is systematic instruction. The term educational purpose is synonymous with educational undertaking, and therefore, it can also include recreational activities as well as an activity designed to offer culture to the public. Activities which are directly related to the educational process of such as intramural sports and tests given to students or prospective students to measure intelligence, ability, or aptitude are considered educational for purposes of the exemption found in Iowa Code section 422.45(3). Municipal or civic art and science centers and libraries are also considered educational for purposes of the exemption.

**EXAMPLE 1:** Little Folks, a local preschool, has a chili supper to raise money for playground equipment, educational materials, and classroom furniture. The net proceeds from the supper are exempt from sales tax because the total amount of the net proceeds from the chili supper will be used for educational purposes. In addition, purchases made by the preschool may be exempt from tax if the preschool can meet the qualifications to be classified as an educational institution. See 701—17.11(422,423) for additional information regarding this exemption.

**EXAMPLE 2:** A local ballet company promotes the arts, provides classes and instruction on various types of dance, and sponsors and performs at numerous recitals that are free to the public. At its location, the ballet company has a gift shop in which patrons can purchase T-shirts, dance wear, and costumes. All proceeds are utilized by the ballet company to pay for its operational expenses and to perform the activities previously mentioned. The proceeds from this gift shop are exempt from Iowa sales tax to the extent they are utilized to pay for the stated educational activities.

*b. Religious.* The words “religious purpose” are analogous to religious worship. In the broadest of terms, it includes all forms of belief in the existence of superior beings capable of exercising power over the human race. As commonly accepted, it means the final recognition of God. It encompasses forms of worship, reference to one’s views about God, or the relationship to one’s creator. It also includes the use of property by a religious society or by a body of persons as a place for public worship.

**EXAMPLE 1:** A local church has a bake sale. All the net proceeds are returned to the church for religious purposes. Bake sales are generally exempt from sales tax unless the product is sold for “on-premises consumption” (see 701—20.5(422,423)), but the net proceeds are exempt from tax in any event because they are going to be used for religious purposes. However, any purchases made by the church that are not for resale are subject to sales tax. See 701—subrule 17.1(3).

EXAMPLE 2: Another local church conducts bingo games every Thursday. The net proceeds from the bingo activities will be used for religious purposes. However, bingo and other gambling activities are subject to sales tax regardless of the manner in which the proceeds are going to be used. See 17.1(5)“t.”

c. *Charitable.* The term “charitable” may be applied to almost anything that tends to promote well-doing and well-being for public good or public welfare with no pecuniary profit to the one performing the service or the giving of gifts by persons kindly disposed toward others, without obligation. An activity for the benefit of the public at large which includes relief of poverty, advancement of education or religion, promotion of health, providing a government or municipal service, and other activities, the purpose of which is to benefit the community, is considered charitable. Maintenance of public parks is a valid charitable purpose. Schools, Red Cross, Boy Scouts, and relief agencies are charitable. Profit-making organizations are not charitable, but may engage in charitable activities. An activity where net earnings go to the benefit of any private shareholder or individual sponsoring the activity is not charitable.

EXAMPLE 1: A local, nonprofit animal shelter that provides shelter, medical care, socialization, and adoption services for homeless animals sells T-shirts and sweatshirts depicting rescued animals as a fund-raiser. All the net proceeds from the sales will go to and be used by the animal shelter to defray the costs it incurs. Sales of the T-shirts and sweatshirts would be exempt from sales tax since the net proceeds would be expended on a charitable purpose. Items purchased by the shelter for resale would also be exempt from sales tax. Items purchased by the shelter that are not for resale, such as dog or cat food that will be used by the shelter, would be subject to sales tax.

EXAMPLE 2: An American Legion post conducts a pancake supper as a fund-raiser for disabled veterans. Some of the net proceeds are used to benefit disabled veterans and the remainder will be used by the American Legion post to pay rent and utilities at its location. Pursuant to subrule 17.1(2), when a portion of the net proceeds are intended to be expended for a qualifying exempt activity, then sales tax should not be collected from the consumer. In turn, the sponsoring organization of the activity, in this case the American Legion post, would not need to remit sales tax on the portion of the net proceeds that is expended for the charitable activity. However, the portion of net proceeds used by the American Legion post to pay rent and utilities is subject to sales tax due to the fact that the net proceeds were not used for a qualifying activity.

EXAMPLE 3: A nonprofit hospital operates a gift shop. All of the proceeds are used to defray costs of hospital care for indigent patients who are unable to pay for such care. Due to the fact that all of the net proceeds are used for a charitable purpose, the proceeds are exempt from sales tax. In addition, effective July 1, 1998, purchases made by the nonprofit hospital are also exempt from sales tax.

**17.1(2) Entire proceeds.** An Attorney General’s Opinion issued on November 2, 1967, indirectly offers a test of whether the gross receipts from an educational, charitable, or religious activity are entirely spent for such purpose. The test is whether all expenditures are so related to the activity so that the expenditure itself is for an educational, charitable, or religious purpose. The term “entire proceeds” is defined as those proceeds remaining after direct expenses have been deducted from the gross receipts derived from the activity or event. In addition to this definition, the expenses should be necessary and have an immediate bearing or relationship to the fulfillment of the activity. For example, the cost of food for a fund-raising meal would be a direct expense. However, the cost of a victory celebration because the fund-raising dinner was a success would not be a direct expense. Another example of where the direct expense rule would be violated would be where an educational institution invested proceeds from an art show into income-producing property and the remainder to purchase books for the library.

Examples of where cost of items would be a valid direct expense include, but are not limited to: 1. Cost of food, if for a fund-raising meal or the selling of food items. 2. Cost of tickets, if the receipts from the tickets are the principal receipts for the activity or event, or 3. Cost of entertainment, if the entertainment is the principal proceeds for the activity or event, such as a fund-raising dance.

For sales made on or after July 1, 1993, an exemption from sales tax shall be allowed even though the entire proceeds are not used for educational, religious, or charitable purposes. The exemption shall apply only to that portion of the proceeds used for educational, religious, or charitable purposes.

At the time of the selling event a presumption is made that sales tax will not be charged and collected from the consumer on the property or service sold. This particular exemption is dependent upon how the entire proceeds from the sale are expended, which follows the selling event. If after the event a portion of the proceeds is expended for a noneducational, nonreligious, or noncharitable purpose, tax is due on that portion of the proceeds in the quarterly period in which that portion was expended.

**17.1(3) *Purchases by organizations.*** Organizations engaged in educational, religious, or charitable activities which sell tangible personal property or render, furnish or perform taxable services at retail in Iowa in connection with such activities shall be exempt from the payment of sales tax on their gross receipts derived from such sales, provided two requirements are met: (1) The activity must be educational, religious, or charitable and (2) the entire proceeds must be used for educational, religious, or charitable purposes.

Organizations that qualify for an exemption shall be entitled to purchase tangible personal property which they resell in connection with such activities without being charged tax on the property. They may give their suppliers a proper certificate of resale, indicating they are using the property for the exempt purpose as outlined and explaining that they do not hold a permit for the reason that their receipts from the sale of tangible personal property in connection with the activities are exempt from tax. Purchases by educational, religious, or charitable organizations which are not for resale, cannot be purchased free of sales tax. Nonprofit educational institutions should see rule 17.11(422,423) for taxable status of their purchases.

**17.1(4) *General information.*** The following is general information, important to organizations involved in educational, religious, or charitable activities:

*a.* There is no authority in the Iowa Code to grant a nonprofit corporation any type of blanket sales or use tax exemption on its purchases because the organization is exempted from federal or state income taxes.

*b.* Nonprofit corporations and educational, religious, or charitable organizations are subject to audit and should keep financial records for five years which meet acceptable accounting procedures.

*c.* Nonprofit corporations and educational, religious, or charitable organizations can be held responsible for the payment of sales and use taxes as would any other individual, retailer, or corporation.

*d.* Nonprofit corporations and educational, religious, or charitable organizations are not required to obtain a sales tax permit or any type of registration number if they are not making taxable sales. There is no provision in the Iowa Code which requires that such organizations have a special sales tax number or registration number and none are issued by the department of revenue and finance. However, if such organizations are making sales which are subject to tax, then a sales tax permit must be obtained.